

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE:

TAREALLY ANN BIVINES,

DEBTOR.

JASON FOSTER,

MOVANT.

v.

TAREALLY ANN BIVINES.

**CASE NO. 24-00724-TOM-7
CHAPTER 7**

MOTION FOR RELIEF FROM AUTOMATIC STAY

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE OF SAID COURT:

NOW COMES, JASON FOSTER (hereinafter referred to as “Creditor”), a secured creditor of the Debtor, and files this its Motion for Relief from Automatic Stay (the “Motion” and in respect from would respectfully show the Court the following.

This is a proceeding under Bankruptcy Rules 4001 and 9014 seeking relief under Section 362(d) of the Bankruptcy Code. The District Court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 1334(b) as it arises in or is related to a case under Title 11. Pursuant to 28 U.S.C. Section 157 and the local rules and/or the Order of the United States District Court, this proceeding will be referred to the bankruptcy judge for hearing. This proceeding constitutes a core proceeding as defined in 28 U.S.C. Section 157(b)(2)(G).

II.

On January 1, 2023, the Debtor executed Lease Agreements regarding the Real Property located at 217 56th Street, Fairfield, AL 35064.

Date: 1/1/2023

Collateral: Real Property located at: 217 56th Street, Fairfield, AL 35064

A true and correct copy of the Lease Agreement is attached hereto as Exhibit "A" and is incorporated herein by reference.

III.

Creditor seeks relief from the automatic stay for cause. Creditor requests that the automatic stay be terminated so Creditor can proceed with an unlawful detainer action.

IV.

Creditor would additionally show the Court that pursuant to the provisions of the contract, the Debtor agreed to pay reasonable attorney's fees in the event it was necessary for Creditor to hire an attorney to collect the indebtedness owing by the Debtor. Debtor is liable for said attorney fees.

WHEREFORE, PREMISES CONSIDERED, Creditor requests that the automatic stay be modified to permit Creditor to foreclose upon its lien and liquidate the collateral as permitted by contract and law, and if applicable, permit Creditor to file an unsecured claim for any remaining deficiency balance. Creditor further requests that in the event the Debtor converts to another bankruptcy chapter during the pendency of this bankruptcy proceeding, any Order entered with respect to this motion shall remain in effect. In the event the Court fails to terminate the automatic stay, Creditor prays that the Court enter an Order adequately protecting the Creditor in the event of a default. Creditor further requests that Rule 4001 (a)(3) not be applicable in this case due to the lack of adequate protection. Creditor further prays that it have such other and further relief, at law or in equity, to which it may show it to be justly entitled.

Respectfully Submitted,

/s/ Michael A. Harrison

Michael A. Harrison asb-0580-r77m

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Attorney for Jason Foster

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing upon the debtor via US Mail, and to counsel for the debtor, and the Trustee by electronic filing this the 22 day of April 2024, to the addresses listed below:

Tareally Ann Bivines
217 56th Street
Fairfield, AL 35064

Miesha Leigh Parchman
mieshageorgeesq@yahoo.com

Andre' M. Toffel
trustee@toffelpc.com

/s/ Michael A. Harrison

Michael A. Harrison